

**KENTUCKY REAL ESTATE COMMISSION  
PROPOSED REGULATIONS  
(2004)**

- A. **PROPOSED NEW REGULATIONS.** Eight (8) new regulations will be proposed. The proposals are:
1. that the instructor and CE regulations include a \$15.00 fee for course approval and a \$10.00 fee for instructors;
  2. to replace with a regulation KREC's policy of denying applications of applicants who are on probation and allowing them to reapply when they are no longer on probation, including language in the regulation that will allow KREC to override this language in the regulation, when appropriate;
  3. to require the disclosure of an agent acting in the dual role of a real estate agent and a loan originator/mortgage broker;
  4. to establish KREC's informal settlement procedures for both Recovery Fund and Non-Recovery Fund cases;
  5. to establish CE requirements for instructors;
  6. to address the agency issues that arise when a seller has a fee-for-service or MLS-only listing with an agent;
  7. to require an applicant to disgorge fees earned while unlicensed prior to becoming licensed and to hold the principal broker responsible for any person brokering real estate without a license;
  8. to require that all advertising is to be approved by the principal broker or a broker-designated individual and to suggest that the seller involved sign a separate sheet of paper indicating that they will comply with the advertising laws which require the principal broker's name or company's name in all advertisements.
- B. **PROPOSED AMENDED REGULATIONS (19):**
1. 201 KAR 11:011. Definitions: As proposed, Section 5 will be amended to eliminate confusion caused by the definitions of "prize", "closing gift", and "other thing of value".
  2. 201 KAR 11:030. License cancellation; reasons for. Change of residence address: As proposed, Sections 1 and 2 will be amended to require written notice to KREC.
  3. 201 KAR 11:040. Contracts to contain financing: As proposed, 201 KAR 11:040 will be repealed and 201 KAR 11:250 (Listing and purchase contracts—provisions required) will be amended to include the language that is presently in 201 KAR 11:040.
  4. 201 KAR 11:045. Written offers to be submitted to owner-client: As proposed, Sections 1 and 2 will be amended to eliminate problem of not presenting offers and to eliminate loophole in Section 2 that licensee is not "representing" the person in question, by including language requiring the presentation of offers whenever there is a listing under any kind of listing relationship. That is, to require all licensees to accept and/or submit all

- written offers from other licensees and all earnest money deposits for properties on which they have a written listing agreement.
5. 201 KAR 11:062. Retention of brokers' records: As proposed, this regulation will be amended to require the retention of all records, including "rejected" written offers.
  6. 201 KAR 11:105. Owner's consent and authorization: As proposed, this regulation will be amended:
    - a) to achieve consistency with Internet regulation (201 KAR 11:420), which does not require the broker to have an executed written listing agreement as does the print regulation;
    - b) to allow greater flexibility for advertising in print (newsletters, etc.); and
    - c) to include a new section that relates to KRS 324.117(1) and/or KRS 324.117(4), requiring principal brokers to clearly designate in their advertisements that they are licensees rather than merely stating their names to avoid, for example, an advertisement by John Doe, Principal Broker from saying: "Call John Doe."
  7. 201 KAR 11:121. Improper conduct: As proposed:
    - a) this regulation will be amended to create a new subsection in Section 1 to make "improper conduct" include being convicted of multiple DUI's while holding a real estate license; and
    - b) Section 1(2) will be amended: 1) to clarify the inducement laws and 2) to address the "rebate vs. refund" issue by making it unlawful for a licensee to refund any portion of an upfront fee to a client or customer at closing or in exchange for a referral to another licensee.
  8. 201 KAR 11:147. Procedure for license retention when sales associate released by broker: As proposed, this regulation will be amended to make it coincide with KRS 324.010(15) and KREC policy, which state that a license will be canceled if a licensee fails to timely re-affiliate.
  9. 201 KAR 11:170. Private school approved: As proposed, Section 2(2) of this regulation will be amended, for clarity, to state: "The curriculum for an approved real estate school shall be conducted for a maximum of no more than seven (7) or eight (8) academic credit hours."
  10. 201 KAR 11:175. Instructor approval procedures and guidelines: As proposed, Section 3 of this regulation will be amended to add language to prohibit an instructor from promoting his or her company or services while serving as an instructor in a pre-license or continuing education class.
  11. 201 KAR 11:180. Promotion of out-of-state property and timeshares, registration and prerequisites: As proposed, Section 3(3) will be amended to delete reference to nonexistent paragraphs 2a-c cited therein.
  12. 201 KAR 11:190. Rules of practice and procedure before the Kentucky Real Estate Commission: As proposed, Section 1(4)(a) will be amended to delete incorrect reference therein to KRS 324.151.
  13. 201 KAR 11:210. Licensing, education, and testing requirements: As proposed:
    - a) Section 2 of this regulation will be amended to add language to require a disinterested third party to translate and certify that the translation is a true

- and accurate report of high school education submitted from a foreign country;
- b) this regulation will also be amended to add a section to the regulation or to the statute (KRS 324.046) that says: Any broker candidate who wishes to apply for a broker's license after one year, using the degrees outlined in KRS 324.046, must provide evidence from the institution that the degree is comparable to one offered at a Kentucky institution in the number of real estate and total hours required to obtain the degree; and
  - c) this regulation will be amended to add to Section (1)(a) a detailed course outline for each course, broken into four-hour increments to include teaching methods, auxiliary aids and materials.
14. 201 KAR 11:230. Mandatory continuing education: As proposed:
- a) Section 1(14)(g)(2) will be amended to delete a reference therein to nonexistent subparagraph 2;
  - b) this regulation will also be amended to add a section that requires the following: ARELLO certification for all distance education courses and requirements for a monitored final. The application shall include information on how the final examination will be administered and monitored. The monitor may not have a family or financial relationship with the student and each individual will be required to sign a statement to that effect;
  - c) Section 19 will be amended to state: Hours of instruction in pre-license real estate education courses, unless it is the licensee's year to take the Kentucky Core course, shall be credited to the mandatory continuing education requirements;
  - d) Section 20 will be amended to state: Continuing education hours may not be carried over into the next calendar year in order to reactivate an escrowed license; and
  - e) this regulation will be amended to add a section to specify how long providers must retain copies of attendance rosters and reasons a provider's approval can be suspended or disqualified.
15. 201 KAR 11:250. Listing and purchase contracts—provisions required: As proposed, this regulation will be amended to officially remove obsolete text in Section 3 and Section 1(2)(a) (i.e., to remove references to "prior to September 1, 2001").
16. 201 KAR 11:350. Seller disclosure of property condition: As proposed, the Seller's Disclosure of Property Condition form will be amended:
- a) to add "f" under Section 3 (Roof) to inquire about roof repairs (e.g., to determine whether the roof has been replaced instead of shingles being placed on it only);
  - b) to add "o" under Section 10 (Miscellaneous) to inquire about the existence of mold and other fungi;
  - c) to move the property address back at the top of the form;
  - d) to add buyer/seller/date/time initial lines at the bottom of the form;
  - e) to officially delete Section 2.(1)(a), which is the SDF prior to September 1, 2001; and

- f) to have Question No. 7(c) ask, “Are you aware of any past *or current problems affecting or with the sewer system?*” rather than simply asking, “Are you aware of any problems with the sewer system?” This would make the question more in line with Question No. 1 on the form, entitled “House Systems”.
17. 201 KAR 11:400. Agency disclosure requirements: As proposed, this regulation will be amended:
- a) to refer to the correct Agency Disclosure Form in Sections 5(1)(b) and (c);
  - b) to be more explanatory on “personal” or “business” relationships; and
  - c) to delete Section 4(2)(c), which refers to a “second contact” that is not defined in the regulation, to eliminate possible confusion over this language and the regulation’s definition of “first contact” and “first substantial contact”.
18. 201 KAR 11:410. Broker duties pursuant to designated agency: As proposed, this regulation will be amended to delete incorrect references therein to KRS 324.160(3). Sections 2(1)(a) and 2(4) will also be amended to update the regulation to make it consistent with KRS 324.121, as amended, which no longer allows principal brokers to appoint themselves as designated agents.
19. 201 KAR 11:430. Procedure for criminal records background check: As proposed, this regulation will be amended:
- a) to allow KREC to investigate any charges and/or convictions;
  - b) to allow “charges” to be a valid reason to deny a license based upon bad reputation; and
  - c) to delete incorrect citations [i.e., KRS 324.045) in Section 3(3)(a) and (b)] and to include correct ones [i.e., KRS 324.170 and KRS Chapter 13B].